

## ORDINANCE NO. 984

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK ADDING CHAPTER 7.14 TO TITLE 7 OF THE MUNICIPAL CODE: PROHIBITION ON THE USE OF POLYSTYRENE BASED DISPOSABLE FOOD SERVICE WARE BY FOOD VENDORS**

WHEREAS, the City of Menlo Park, ("City") wishes to adopt a prohibition on the use of polystyrene based disposable food service ware by food vendors; and

WHEREAS, the City of Menlo Park wishes to adopt by reference San Mateo County's Ordinance for the prohibition.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MENLO PARK DOES ORDAIN AS FOLLOWS:

**SECTION 1: FINDINGS AND DETERMINATIONS.** The following conditions justify adding a section to Chapter 7 of the Municipal Code:

- a. The City of Menlo Park wishes to adopt by reference San Mateo County's ordinance prohibiting food vendors from using polystyrene based disposable food service ware in accordance; and
- b. The City Council finds that polystyrene is a petroleum-based, lightweight plastic material commonly used as food service ware by retail food vendors operating in the City of Menlo Park. Polystyrene, often referred to by the trademark Styrofoam, has also become a problematic environmental pollutant given its non-biodegradable, non-recyclable and nearly non-reusable nature; and
- c. The City Council finds that polystyrene-based, single-use food service ware consistently constitutes a substantial portion of the trash and litter found on the streets, streams, creeks and storm drains within the City of Menlo Park, which increases clean up costs; and
- d. The City Council finds that effective ways to reduce the negative environmental impacts of disposable food service ware include using biodegradable or compostable materials made from renewable resources such as paper, cardboard, corn starch, potato starch, and/or sugarcane; and
- e. The City Council finds that adopting such an ordinance will assist in complying with Municipal Stormwater (NPDES) permit requirements that are regulated and enforced by the San Francisco Bay Regional Water Board; and
- f. The City Council does, accordingly, find and declare that it should restrict the use of polystyrene-based food service ware.

SECTION 2: AMENDMENT OF CODE. Menlo Park's Municipal Code is hereby amended to add Chapter 7.14 to Title 7 to read as follows:

**Chapter 7.14.  
PROHIBITION ON THE USE OF POLYSTYRENE BASED  
DISPOSABLE FOOD SERVICE WARE BY FOOD VENDORS**

Sections:

7.14.010 Adoption of the San Mateo County Code Chapter 4.107 by Reference  
7.14.020 Authorization of Enforcement by San Mateo County Personnel

**7.14.010. Adoption of the San Mateo County Code Chapter 4.107 by Reference**

Chapter 4.107 of Title 4 of the San Mateo County ordinance code, titled "Prohibition of the Use of Polystyrene Based Disposable Food Service Ware by food Vendors", and any amendment thereto, are hereby adopted by this reference and made part of the Menlo Park Municipal Code, and are, accordingly, effective in the City of Menlo Park. Certified copies of Chapter 4.107 of Title 4, as adopted hereby, and any subsequent amendment, shall be deposited with the City Clerk, and shall be at all times maintained by the Clerk for use and examination by the public.

**7.14.020. Authorization of Enforcement by San Mateo County Personnel**

The County of San Mateo, its officers, employees and agents are hereby authorized to enforce, on behalf of the City of Menlo Park, Chapter 4.107 "Prohibition of the Use of Polystyrene Based Disposable Food Service Ware by food Vendors" of Title 4 of the San Mateo County ordinance code, and any amendments thereto, within the jurisdiction areas of the city. Such enforcement authority includes, but it is not limited to, the collection of fees and fines, expending such revenue in the enforcement of the prohibition on the use of polystyrene-based disposable food service ware by food vendors, holding hearings, suspending permits, and issuing administrative fines.

SECTION 3: SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council does hereby declare that it would have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

SECTION 4: CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) DETERMINATION. This ordinance is not subject to CEQA because it is not a "project" which would have a direct physical change or a reasonably foreseeable indirect physical change on the environment pursuant to CEQA Guidelines section 15378. (See 15378(b)(2) [exemption for policymaking].) And, even if it were a project subject to CEQA review, this project would be exempt from CEQA pursuant to section 15307 [exemptions for actions to protect natural resources], and section 15308 [exemptions for actions to protect the environment].

SECTION 5: EFFECTIVE DATE AND PUBLISHING. This ordinance shall take effect and be in force on November 1, 2012. Within fifteen (15) days of its adoption this ordinance shall be posted in three (3) public places within the City of Menlo Park, and the ordinance, or a summary

of the ordinance prepared by the City Attorney, shall be published in a local newspaper used to publish official notices for the City of Menlo Park prior to the effective date.

INTRODUCED on the thirty-first day of July, 2012.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said Council on the twenty-eighth day of August, 2012, by the following votes:

AYES: Cline, Fergusson, Keith, Ohtaki

NOES: None

ABSENT: Cohen

ABSTAIN: None

APPROVED:



Kirsten Keith  
Mayor

ATTEST:



Margaret S. Roberts, MMC  
City Clerk